

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

KENNY BARCLAY

v.

MP TECHONOLOGIES, LLC AND  
KYLE ANDREW HICKS

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§  
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CASE NO.

**NOTICE OF REMOVAL**

TAKE NOTICE THAT Defendant MP Technologies, LLC (“Defendant”) while fully reserving all rights and defenses, files this Notice of Removal to United States District Court for the Southern District of Texas, Houston Division. Removal is proper under 28 U.S.C. §§1332 and 1441(a) because this is an action over which the United States District Court for the Southern District of Texas, Houston Division, has original diversity jurisdiction, as it is an action between citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs. In support of their Notice of Removal, Defendant respectfully shows as follows:

**I. GROUNDS FOR REMOVAL**

1. This case is removable to this Court based on diversity jurisdiction under 28 U.S.C. §§1332 and 1441(a).
2. Plaintiff Kenny Barclay (“Plaintiff”) is a citizen of Galveston County, Texas.
3. Defendant Kyle Andrew Hicks (not yet served) is a citizen of Tennessee.
4. Defendant MP Technologies, LLC is a limited liability company organized and existing under the laws of Minnesota.
5. As described more fully below, Plaintiff seeks to recover from Defendants more than \$75,000, excluding interest and costs.

## II. PENDING STATE SUIT

6. On or about December 27, 2017, Plaintiff filed a civil action against Defendants in Cause No. 2017-85383 styled *Kenny Barclay v. MP Technologies, LLC and Kyle Andrew Hicks* in the 269th District Court of Harris County, Texas.<sup>1</sup>

7. According to Plaintiff's Original Petition, Plaintiff alleges he was injured in a motor vehicle accident that occurred on March 7, 2016, in Houston, Texas.<sup>2</sup>

8. Plaintiff claims that Defendant Kyle Andrew Hicks, an employee of Defendant MP Technologies, LLC, struck Plaintiff's vehicle from behind.<sup>3</sup>

9. The name and address of the Court from which the case is being removed is:

269th District Court  
Harris County Civil Courthouse  
201 Caroline St.  
Houston, Texas 77002

## III. STATE COURT DOCUMENTS & EXHIBITS

10. The following documents are attached to this Notice of Removal:

Exhibit "1" Citation of MP Technologies, LLC.

Exhibit "2" Plaintiff's Original Petition and Requests for Disclosure.

Exhibit "3" State Court's Docket Sheet.

Exhibit "4" List of all Counsel of Record.

Exhibit "5" Notice of Filing of Removal.

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<sup>1</sup> See Pl.'s Original Pet. attached hereto as Exhibit 2.

<sup>2</sup> *Id.* at ¶ 4.1.

<sup>3</sup> *Id.* at ¶ 4.1.

#### **IV. TIMING OF REMOVAL**

11. On January 24, 2018, Plaintiff served Defendant MP Technologies, LLC with Plaintiff's Original Petition.<sup>4</sup> Plaintiff has not served Defendant Kyle Andrew Hicks. Removal is within 30 days of service of the Original Petition on Defendant MP and is timely under 28 U.S.C. §1446(b).

#### **V. JURISDICTION**

12. Pursuant to 28 U.S.C. §1332, a defendant has a right to remove a case to federal court if the case involves a dispute between completely diverse parties and the amount in controversy, excluding interest and costs, exceeds \$75,000.

13. Plaintiff seeks damages between \$200,000 and \$1,000,000.<sup>5</sup> Based on the allegations in Plaintiff's Original Petition, this matter is removable to this Court under 28 U.S.C. §1332 because the amount in controversy, excluding interests and costs, exceeds \$75,000.

14. Plaintiff alleges in his Original Petition that he resides in and is a citizen of Texas.<sup>6</sup>

15. Defendant Kyle Andrew Hicks resides in and is a citizen of Tennessee.<sup>7</sup>

16. Defendant MP Technologies, LLC is a limited liability company organized and existing under the laws of Minnesota.

17. Accordingly, there exists complete diversity of citizenship between Plaintiff and Defendants under 28 U.S.C. §1332.

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<sup>4</sup> See Exhibit 1.

<sup>5</sup> See Plaintiff's Original Petition attached as Exhibit 2, ¶ 8.1.

<sup>6</sup> *Id.* at ¶ 2.1.

<sup>7</sup> *Id.* at ¶ 2.2.

## **VI. VENUE**

18. Pursuant to 28 U.S.C. §1441(a), venue for this action is proper in the United States District Court for the Southern District of Texas, Houston Division, as it is the federal judicial district that encompasses the 269th District Court of Harris County, Texas where the state action was originally filed.

## **VII. NOTICE TO ADVERSE PARTIES AND TO STATE COURT**

19. As the removing party, Defendant will give Plaintiff prompt written notice of this Notice of Removal as required by 28 U.S.C. §1446(d).

20. Defendant will also file a copy of this Notice of Removal with the 269th District Court, where the state court action is currently pending, as required by 28 U.S.C. §1446(d).

## **VIII. ANSWER**

21. Defendant timely filed an answer in the state court action. By removing this action to this Court, Defendant does not waive any defenses, objections, or motions available to it under state or federal law, and will timely file responsive pleadings to Plaintiff's Original Petition in this Court as well, as necessary.

## **IX. PRAYER**

22. For these reasons and in conformity with 28 U.S.C. §1446, Defendant respectfully removes the civil action styled *Kenny Barclay v. MP Technologies, LLC* and bearing Cause No. 2017-85383 on the docket of the 269th District Court of Harris County, Texas. Defendant prays for such other and further relief, both general and special, at law and in equity, as is just.

Respectfully submitted,

//s// Branch M. Sheppard  
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**ATTORNEY FOR DEFENDANT,  
MP TECHNOLOGIES, LLC.**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13th day of February, 2018, a copy of this Notice of Removal was served as follows:

**Via E-Mail ([chris@thesoileaulawfirm.com](mailto:chris@thesoileaulawfirm.com))**

CHRISTOPHER SOILEAU  
THE SOILEAU LAW FIRM  
P.O. BOX 1749  
DEER PARK, TEXAS 77536

//s// Branch M. Sheppard  
Branch M. Sheppard